

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION**

STANLEY LEE BROWN, JR., *et al.*)
Plaintiffs)
v.)
CITY OF LYNCHBURG, *et al.*)
Defendants.)

CASE NO. 6:24cv00039

**PLAINTIFF'S MEMORANDUM IN OPPOSITION TO THE RULE 12(B)(6) MOTION
TO DISMISS (ECF 24) FILED BY DEFENDANT GARRETT WATERMAN**

COME NOW the Plaintiffs, Stanley Lee Brown, Jr. and Da'Quan Hunt, by counsel, in opposition to Defendant LPD Officer Garrett Waterman's Motion to Dismiss Counts 5 and 12 of the First Amended Complaint (ECF 24), to-wit:

ARGUMENT

"An alleged victim of sexual assault, need not plead with graphic specificity any additional objective physical injury." *Hygh v. Geneva Enterprises, Inc.*, 47 Va. Cir. 569 (1997) "The victim of a sexual assault clearly experiences severe emotional distress that no reasonable person could be expected to endure." Ibid.

The Defendants contend that the Plaintiffs have not alleged a plausible claim for intentional infliction of emotional distress in Counts Five and Twelve of the First Amended Complaint. Each of the Plaintiffs specifically alleged that they were sexually assaulted in public by Defendant Waterman while they were detained. They alleged that Waterman penetrated their anuses with his finger and touched their genitals with lascivious intent under the guise of conducted a search. First Amended Complaint ¶¶ 36-70

If the facts alleged in the First Amended Complaint do not state plausible claims for intentional infliction of emotional distress, no facts ever will. The Plaintiffs pray that this Court overrule and deny Defendant Waterman's Motion to Dismiss the First Amended Complaint.

Respectfully submitted,

STANLEY LEE BROWN, JR. and DA'QUAN HUNT
By Counsel

/s/ M. Paul Valois
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CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of November, 2024, I electronically filed the foregoing Memorandum with the Clerk of this Court using the CM/ECF system, which will automatically send notice of this filing to all counsel of record.

/s/ M. Paul Valois